Probably the most satisfactory test ever given by the United States Supreme Court concerning the applicability of the "fellow-servant" doctrine, is the following: "If the departments of the two servants are so far separated from each other that the possibility of coming in contact and hence incurring danger from the negligent performance of the duties of such other department, could not be said to be within the contemplation of the person injured, the doctrine of fellow-service should not apply." *Northern Pac. R. Co.* v. *Hambly,* 154 U. S. 349, 357, 38 L. Ed. 1009, 14 Sup. Ct. 983. See also *Kuhn* v. *Fairmont Coal Co.,* 215 U. S. 349, 54 L. Ed. 228, 30 Sup. Ct. 140. In the principal case the court followed these authorities; but the following quotations from the opinion of the court are interesting: "The doctrine as to fellow-servants may be, as it has been called, a bad exception to a bad rule, but it is established, and it is not open to courts to do away with it upon their personal notions of what is expedient. * * * If the law is bad, the legislature, not juries, must make a change." This is one of the many evidences tending to prove that the courts would be glad to be relieved of this doctrine with which they once saddled themselves, but which they now find unsuited for modern conditions.

MASTER AND SERVANT—LIABILITY OF MASTER TO THIRD PERSONS FOR ACTS OF SERVANT—AUTOMOBILES.—A chauffeur had taken his employer (defendant) to the theatre, and had been told to be back there at a certain time; the employer then loaned him money to get a hair cut; the chauffeur, after driving the employer's automobile to several barber shops, to find a barber at leisure, was returning to the theatre, when he ran over and killed plaintiff's intestate. *Held* that the chauffeur was then acting within the scope of his employment, and the employer was liable for the consequences of the accident. *McKiernan* v. *Lehmaier* (Conn. 1911), 81 Atl. 969.

The court follows *Stone* v. *Hills,* 45 Conn. 44, 29 Am. Rep. 635. The test is whether the servant was doing what he was employed to do at the time he caused the injury complained of. *Rowell* v. *Boston & Me. R.,* 68 N. H. 358, 44 Atl. 488. The master is not liable where the act of the servant is done to effect some independent purpose of his own; *Barmore* v. *Vicksburg R. Co.* 85 Miss. 426, 38 South 210, 70 L. R. A. 627: or where the servant turns wholly aside from the master's employment and goes on an independent journey wholly foreign to his employment; *McCarthy* v. *Timmins,* 178 Mass. 378, 59 N.E. 1038, 86 Am. St. Rep. 490; or where having finished his master's business and returned home, he starts on a separate journey for a purpose of his own without his master's knowledge; *Mitchell* v. *Crasswaller,* 13, C.B. 237, 22 L. J. C. P. 100. Thus where a chauffeur took an automobile for his own use to a different place from where he was directed to take it, it was held that the relation of master and servant did not exist; *Danforth* v. *Fisher,* 75 N. H. 111, 71 Atl. 535; and where the chauffeur in disobedience to instructions had the automobile out for his own pleasure, at the time of the accident, the owner was not liable; *Lotz* v. *Hanlon,* 217 Pa. St. 339, 66 Atl. 525. 10 L. R. A. (N.S.) 202, 118 Am. St. Rep. 922; *Stewart* v. *Baruch,* 103 App. Div. 577, 93 N. Y. Supp. 161.